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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/781,052	02/18/2004	James E. Pangerc	0275Y-000713	8389
27572	7590	07/26/2005	EXAMINER	
HARNES, DICKEY & PIERCE, P.L.C.			JOHNSON, JERROLD D	
P.O. BOX 828			ART UNIT	
BLOOMFIELD HILLS, MI 48303			PAPER NUMBER	

3728

DATE MAILED: 07/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/781,052

Applicant(s)

PANGERC ET AL.

Examiner

Jerrold Johnson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 39 and 40 is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-19, 21-38 is/are rejected.
- 7) ☒ Claim(s) 6 and 20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>17 Sept 2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

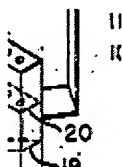
The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 21-25 and 27-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Drohman US 2,589,234.

Drohman discloses a storage container for housing bits comprising a front housing portion 11 and a rear housing portion 10 pivotally connected through a hinge for moving between open and closed positions, said front housing portion and said rear housing portion defining a body cavity therebetween in said closed position, at least one of said front and rear housing portions including an inwardly extending ledge (note that the ledge is considered to be the inside surface of the bottom of each of the two portions of the container, see below),



and at least one bit holder 16, 16a pivotally connected to said hinge and arranged to fit within said body cavity in said closed position, said at least one bit holder including a

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foot portion (the bottom surface), wherein said foot portion of said at least one bit holder overhangs said ledge, said ledge cooperating with said foot portion to inhibit physical deflection of said at least one bit holder in a direction toward said ledge (note close relationship of these two surface in Fig. 3).



Re claim 22, said ledge includes a front ledge extending from said front housing portion and a rear ledge extending from rear housing portion.

Re claim 23, the at least one bit holder includes a front bit holder lying adjacent to said front housing portion in said closed position and a rear bit holder lying adjacent to said rear housing portion in said closed position.

Re claim 24, the front bit holder includes a foot portion for cooperating with said front ledge of said front housing portion.

Re claim 25, said rear bit holder includes a foot portion for cooperating with said rear ledge of said rear housing portion.

Re claim 27, Drogman discloses a storage container for housing bits comprising a front housing portion 11 and a rear housing portion 10 pivotally connected through a hinge 13 for moving between open and closed positions, said front housing portion and said rear defining a body cavity therebetween in said closed position, and a bit holder 16, 16a having an outer sleeve (the box of the bit holder) coupled to and supported by a frame portion 20, 20a, said bit holder pivotally disposed within said body cavity and including bit receiving portions apertures 21 formed therein for accepting the bits, at least one of said bit receiving portions defined by a first radial support member (portion

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of the apertures) formed on said frame portion defining an outer boundary of said at least one of said bit receiving portions, said first radial support member having a predetermined height, wherein said predetermined height is less than a height of a bit accepted therewithin.

Re claim 28, said at least one of said bit receiving portions defines a circumferential boundary, said first radial support member including a first radial wall portion extending around a first partial circumference of said circumferential boundary (any *portion* of the aperture 21 meets this limitation).

Re claim 29, Drohman further discloses a second radial support member including a second radial wall portion (edge of aperture 18) extending around a second partial circumference of said circumferential boundary, said second partial circumference unbounded by said first partial circumference.

Re claim 30, said first and second radial support members are axially offset from each other. The Examiner is unsure of the accuracy of the language set forth in this limitation which is drawn to the height difference measured along the longitudinal axis of the first and second radial support members. In any event, aperture 18 is offset in this way from aperture 21. Please review to determine if the language is clear on what is being set forth in this limitation.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1,2,5,9,10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Drohman in view of Budert US 6,547,077.

Drohman discloses the structure (note 102 rejection above) but does not disclose the retaining member. Instead, Drohman uses a angled top surface to accommodate the different lengths of drill bits.

Budert discloses a retaining member 15, which allows the container to have a rectangular configuration.

Accordingly, it would have been obvious to one of ordinary skill in the art to modify the container of Drohman with the teaching of Budert so as to provide a rectangular container that is easier to produce than one with an angled side wall.

Re claim 2, note the two bit holders.

Re claim 5, note the structure of the bit holders comprising frame elements 19 and 20 which carry a sleeve (the outer shell of the bit holder within which the frame elements are disposed) the frame elements are indirectly pivotally coupled at said hinge through the sleeves of the bit holders.

Re claim 9, the sleeves are metallic.

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Re claim 10, the frames are not disclosed as rigid plastic, but one of ordinary skill in the art would recognize the utility of plastic as an alternative to metal in this application.

Re claim 11, note cutouts 31 of Budert.

Claims 3,4,7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Drohman in view of Budert US 6,547,077 and further in view of Hout US 2,564,601.

Drohman, in col. 4, first full paragraph, discloses the use of an additional bit holder supported on the hinge at a higher elevation. Drohman does not show this configuration in the drawings, but does provide evidence of the contemplation of bit holders of different heights.

Hout discloses how bit holders of varying heights can be disposed within a container such that:

with respect to claim 3, the front bit holder extends upward a first distance from a bottom of said body cavity and said rear bit holder extends upward a second distance from said bottom of said body cavity, said second distance being greater than said first distance, and

with respect to claim 4, the plurality of bit holders further includes at least one intermediate bit holder extending upward from a bottom of said body cavity a third distance, said third distance being less than said second distance and greater than said first distance.

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Accordingly, it would have been obvious to one of ordinary skill in the art to modify the container of Drohman with the teachings of Hout so as to provide additionally bit storage capacity to the container while allowing the bits to be viewed easily.

Re claim 7, Drohman in view of Budert does not disclose the bottom surface being perpendicular. Hout discloses this common arrangement of the bottom surface. It would have been obvious to one of ordinary skill in the art to modify the bit holder of Drohman in view of Budert with the teaching of Hout so that the bits take a minimum of space within the container.

Re claim 8, the retaining member of Budert extends at an angle.

Claims 12-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Drohman in view of Hout US 2,564,601.

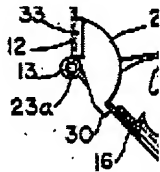
Drohman, in col. 4, first full paragraph, discloses the use of an additional bit holder supported on the hinge at a higher elevation. Drohman does not show this configuration in the drawings, but does provide evidence of the contemplation of bit holders of different heights.

Hout discloses how bit holders of varying heights can be disposed within a container such that: a front bit holder lying adjacent to said front housing in said closed position, a rear bit holder lying adjacent to said rear housing in said closed position, and a middle bit holder disposed between said front and rear bit holders.

Drohman discloses how bit holders each include at least two hinge arms respectively cooperating with said hinge, said hinge arms of said front bit holder

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extending in a laterally offset direction from said hinge arms of said rear bit holder (note in Fig. 6 that the arm (extension of element 16) is offset from the pin 13 a small amount).



Accordingly, it would have been obvious to one of ordinary skill in the art to modify the container of Drohman with the teachings of Hout so as to provide additionally bit storage capacity to the container while allowing the bits to be viewed easily.

Re claim 13, note cutouts 27-29 in Drohman.

Re claims 14 and 15, note this configuration in Hout.

Re claim 16-18 note frames 19,20 and metallic sleeves (the portions which enclose the frames). The use of plastic within bit storage containers is well known and the use of this material would be obvious to one of ordinary skill in the art.

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Drohman in view of Riess US 4,934,530.

Drohman does not disclose ridges.

Riess discloses ridges on the portion of the container which is engaged by the hand of the user to improve the grip on that portion.

Accordingly, as the portion of the drill bit holder that is most likely to be engaged by the user of Drohman is the bit lateral side of the bit holder, it would have been

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obvious to one of ordinary skill in the art to modify the lateral side of the bit holders of Drohman with the ridges as taught by Riess to improve the grip on the tool holder.

Claims 31-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Drohman in view of Hout and further in view of Eldridge, Jr. US 4,596,329.

Drohman does not disclose bit size identifiers on front and rear sides of the bit holders. However, the front and rear of the bit holders are pivotal to positions where they are visible.

Hout discloses bit size identifiers on front, but not the rear sides of the bit holders, as the rear sides of the bit holders are not visible.

Eldridge discloses how a holder where both the front and rear sides are visible in use includes identifiers on both the front and rear sides.

Accordingly, it would have been obvious to one of ordinary skill in the art to modify the bit holder of Drohman with the teachings of Hout and Eldridge so as to provide the user the ability to determine the size of the bit regardless of the position of the bit holder with respect to the container.

Re claims 32-34, Hout discloses these configurations of tool bit holders heights and identifier positions. Additionally, note the rejections above which address the modification of Drohman with additional tool bit holders.

Claims 35 is rejected under 35 U.S.C. 103(a) as being unpatentable over Drohman in view of Huang US 2006/0085141.

Drohman does not disclose the latch and shoulder configuration common in storage containers.

Huang discloses this common arrangement.

It would have been common to provide the storage container of Drohman with a latch as taught by Huang to minimize the possibility the container would open accidentally.

Claims 36-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Drohman in view Hallée US 2004/0144671.

Drohman discloses the claimed features, but does not disclose the hinge face structure set forth.

Hallee teaches the claimed hinge face structure of interfitting inset and outset portions (see Fig. 2) on the hinge faces.

It would have been obvious to one of ordinary skill in the art to modify the container of Drohman with the inset and outset structure of Hallee so as to allow the container to be supported on the hinge faces (see the front page drawing).

Allowable Subject Matter

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Claims 6 and 20₁ are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 39 and 40 are allowed.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jerrold Johnson whose telephone number is 571-272-7141. The examiner can normally be reached on 9:30 to 6:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 571-272-4562. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JDJ


Mickey Yu
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Group 3700